

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KRISTINA FINK, on behalf of the Nation
Safe Drivers Employee Stock Ownership
Plan, and on behalf of a class of all other
persons similarly situated,

Plaintiff,

v.

WILMINGTON TRUST, N.A., as successor
to Wilmington Trust Retirement and
Institutional Services Company, MICHAEL
SMITH, ANDREW SMITH, and FRANK
MENNELLA,

Defendants,

and

WILMINGTON TRUST, N.A., as successor
to Wilmington Trust Retirement and
Institutional Services Company,

Third-Party Plaintiff,

v.

STOUT RISIUS ROSS, INC. and STOUT
RISIUS ROSS, LLC,

Third-Party Defendants.

Case No. 19-1193-CFC

**PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF
SETTLEMENT, ATTORNEYS' FEES, LITIGATION EXPENSES AND
CLASS REPRESENTATIVE SERVICE AWARD**

Plaintiff Kristina Fink, Individually and as Class Representative, moves the Court for an order approving a class action settlement agreement between Plaintiff and Defendants Wilmington Trust, N.A. (“Wilmington Trust”), Michael Smith, Andrew Smith and Frank Mennella (“Individual Defendants”) (collectively, “Defendants”) and granting an award of attorneys’ fees, litigation expenses and a class representative service award.

1. On August 3, 2021, Plaintiff filed a Motion for Final Approval of the Settlement (“Final Approval Motion”) (D.I. 63) set forth in the Class Action Settlement Agreement dated May 28, 2021 (the “Settlement Agreement”) and an Unopposed Motion For An Order Awarding Attorneys’ Fees and Costs And Expenses To Class Counsel, and A Service Award to Class Representative (D.I. 66) (“Motion for Attorneys’ Fees”).

2. On September 15, 2021, this Court held a duly noticed Final Approval Hearing to consider: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate; (2) whether a judgment should be entered dismissing the Class Members’ Released Claims on the merits and with prejudice; and (3) whether and in what amount to award attorneys’ fees and expenses to Plaintiff’s Counsel and also to award to the Class Representative for her representation of the Settlement Class.

3. At the September 15, 2021 hearing, the Court deferred ruling on the

Final Approval Motion and Motion for Attorneys' Fees and allowed Plaintiff to submit supplemental briefing on Plaintiff's Counsel's request for common fund attorneys fees. On September 24, 2021, Plaintiff's Counsel submitted additional information to the Court in support of Class Counsel's request for common fund attorneys' fees. (D.I. 74).

4. On October 19, 2021, the Court issued an Order on the Final Approval Motion and the Motion for Attorneys' Fees. (D.I. 75). The Court stated its willingness to approve the proposed settlement, but reduced the requested attorneys' fees to a \$720,273 (applying a 1.7 multiplier to the lodestar fees of \$423,690 as of the filing of the Motion for Final Approval). (D.I. 75 at 11). The Court ordered Plaintiff to file amended motions consistent with the Order. (*Id.* at 12).

5. Consistent with the Court's October 19, 2021 Order, Plaintiff amends her Final Approval Motion and Motion for Attorneys' Fees to request \$720,273 in attorneys' fees. The reduction in requested attorneys' fees further supports the fairness, reasonableness and adequacy of the settlement as detailed in the Final Approval Motion. *See* D.I. 64 at 22-23; Fed. R. Civ. P. 23(e)(2)(C)(iii). The reduced attorneys' fees also supports the reasonableness of the award pursuant to the "*Gunter/Prudential*" factors utilized in the Third Circuit. Other than the reduced request for attorneys' fees, Plaintiff restates and incorporates into this motion the arguments made in her Final Approval Motion and Motion for Attorneys' Fees.

6. Pursuant to D. Del. LR 7.1.1, the undersigned Delaware counsel states that he contacted opposing counsel and they do not oppose the relief requested herein.

Dated: October 25, 2021

/s/ David A. Felice

David A. Felice (#4090)
BAILEY & GLASSER LLP
Red Clay Center at Little Falls
2961 Centerville Road, Suite 302
Wilmington, DE 19808
Telephone: (302) 504-6333
dfelice@baileyglasser.com

Gregory Y. Porter (*pro hac vice*)
Ryan T. Jenny (*pro hac vice*)
Patrick O. Muench (*pro hac vice*)
BAILEY & GLASSER LLP
1055 Thomas Jefferson St., NW
Suite 540
Washington, DC 20007
Telephone: (202) 463-2101
gporter@baileyglasser.com
rjenny@baileyglasser.com
pmuench@baileyglasser.com

Daniel Feinberg (*pro hac vice*)
FEINBERG, JACKSON, WORTHMAN &
WASOW LLP
2030 Addison Street, Suite 500
Berkeley, CA 94704
Telephone: (510) 269-7998
dan@feinbergjackson.com

Attorneys for Plaintiff